

SECTION L

INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<http://www.acqnet.gov>

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) PROVISIONS

NUMBER	DATE	TITLE
52.214-34	APR 1991	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE
52.214-35	APR 1991	SUBMISSION OF OFFERS IN U.S. CURRENCY
52.215-16	JUN 2003	FACILITIES CAPITAL COST OF MONEY
52.222-24	FEB 1999	PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION
52.222-46	FEB 1993	EVALUATION OF COMPENSATION FOR PROFESSIONAL EMPLOYEES

[End of By-Reference Provisions]

L.2 52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (JAN 2004) Alternate I (OCT 1997)

(a) Definitions. As used in this provision--

"Discussions" are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

"In writing," "writing," or "written" means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

"Proposal modification" is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

"Proposal revision" is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

"Time", if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals.

- (1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.
- (2) The first page of the proposal must show--
 - (i) The solicitation number;
 - (ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);
 - (iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
 - (iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and
 - (v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.
- (3) Submission, modification, revision, and withdrawal of proposals.
 - (i) Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.
 - (ii) (A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--
 - (1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or
 - (2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
 - (3) It is the only proposal received.
 - (B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.
 - (iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.
 - (iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day

specified in the solicitation on the first work day on which normal Government processes resume.

- (v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.
- (4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.
- (5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.
- (6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.
- (7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.
- (8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.
- (d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).
- (e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

- (1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of--or in connection with--the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets **[insert numbers or other identification of sheets]**; and

- (2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

- (f) Contract award.

- (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.
- (2) The Government may reject any or all proposals if such action is in the Government's interest.
- (3) The Government may waive informalities and minor irregularities in proposals received.
- (4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

- (5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.
- (6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.
- (7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.
- (8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.
- (9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.
- (10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.
- (11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information if applicable:
 - (i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
 - (ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
 - (iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
 - (iv) A summary of the rationale for award.
 - (v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
 - (vi) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

[End of Provision]

L.3 52.233-2 SERVICE OF PROTEST (SEP 2006)

- (a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Janice L. Hill
 Contracting Officer
 1300 Pennsylvania Ave. NW Suite 1310
 Washington, DC 20229
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- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

[End of Provision]

L.4 GENERAL INSTRUCTIONS FOR THE PREPARATION OF PROPOSALS (OCT 2008)

Each offeror's proposal submitted in response to this solicitation shall be prepared in two volumes: Volume I - Business Management Information - Cost/Price Proposal and Volume II - Technical/Technical Management Proposal. Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently from evaluation of the other. The proposals shall be submitted both in hard copy and electronic media (CD-ROM or by electronic email to individual designated to receive proposals in the solicitation) using Microsoft Word 2003 (or higher versions when available) for text submissions and Excel 2003 (or higher versions when available) for spreadsheet for submissions.

Proposals must be prepared in accordance with these instructions and provide all required information in the format specified. The required format is designed to ensure submission of information essential to the understanding and comprehensive evaluation of the offeror's proposal. There is no intent to limit the contents of proposals: the instructions permit inclusion of any additional data or information on offeror deems pertinent.

Failure of a proposal to comply with these instructions may be grounds for exclusion of the proposal from further consideration.

A. Volume I - Business Management Information - Cost/Price Proposal

The Business Management Information - Cost/Price Proposal shall be submitted in an original and 3 of copies.

Section 1 - Signed Proposal

The Standard Form 33, Solicitation, Offer and Award, (SF 33) is being used for this solicitation. This form is used by the Government as a Request for Proposal and upon submission by the offeror it becomes the offeror's proposal. As such, it is an "offer" which can be unilaterally accepted by the Contracting Officer and awarded on said SF 33. The Contractor's offer and the Government's acceptance form the contract. Therefore, the following points must be strictly adhered to by the offeror in submitting the proposal:

- (a) Three (3) originally executed copies of Standard Form 33 (with Blocks 12 through 18 completed); and Section K fully executed shall be submitted.
- (b) The SF 33 must be executed by a representative of the offeror authorized to commit the offeror to contractual obligations. The authority to sign a proposal, but not an offer, subject to unilateral acceptance and award, is not sufficient authorization to sign the SF 33.
- (c) UNDER NO CIRCUMSTANCES MAKE ALTERATIONS OR CHANGES TO THE SF 33 OR THE RELATED PAGES WHICH ARE A PART OF THE ENCLOSED REQUEST FOR PROPOSAL AND PROPOSAL PACKET. Offerors are to complete those parts that require items such as prices, place of performance, etc., when such items are called for in the enclosed request for proposal. A place is provided to insert such information.

Section 2 - Exceptions

Any exceptions taken with respect to the clauses in the solicitation shall be noted. For the purpose of facilitating discussions, for every instance where the offeror does not propose to comply with or agree to a requirement, the offeror shall propose an alternative and describe its reasoning therefore.

Section 3 - Financial Capability

The offeror shall provide the following data for itself and for any subcontractors for which the total value of the subcontract is greater than \$550,000:

- (a) Provide a copy of annual financial statements covering each of the offeror's last three annual accounting periods, including the most recent partial period, if currently available.
- (b) Specify the financial capacity, working capital and other financial resources available to perform the contract.
- (c) Specify whether or not the organization's accounting system has been approved by a Government agency; if so, state the name and location of the cognizant audit agency, the name and telephone number of the

cognizant auditor, and the types of Government contracts for which the accounting system has been approved.

Section 4 - Cost or Pricing Data [Choose one of the following.]

Offerors are not required to submit certified cost or pricing data. Full and open competition is expected which will be used to determine prices fair and reasonable. Prices will be compared on a Contract Line Item Number (CLIN) and/or total basis. However, Offerors may be requested to provide additional information in the event costs appear over-stated or under-stated.

B. Volume II - Technical Proposal

The Technical Proposal shall be submitted in an original and Three (3) of copies. This volume must not contain any reference to cost; however, resource information (such as data concerning labor hours and categories, materials, subcontracts, etc.) must be contained in the technical proposal so that the Contractor's understanding of the requirements may be evaluated.

The Technical Proposal shall be prepared in such a manner as to enable the Government reviewers to make a thorough evaluation and arrive at a sound determination of whether the proposal meets all technical requirements [or satisfies the Statement of Objectives (for performance based requirements)] of the solicitation. To this end, the Technical Proposal should be sufficiently specific, detailed, and complete as to clearly and fully demonstrate that the offeror has a thorough understanding of the requirements set forth in the solicitation. Proposals which merely offer to perform in accordance with the Government's requirements or which merely paraphrase the requirements document, or use phrases such as, "standard engineering practices will be employed," or "well established techniques will be employed," etc. may be considered non-compliant and ineligible for award. The Contractor must submit an explanation of its proposed technical approach in conjunction with the tasks to be performed in achieving the project objectives.

This volume shall consist of the sections described below.

Section 1 - Transmittal Letter

A letter that formally transmits the proposal and states in general terms how the offeror meets the solicitation requirements.

Section 2 - Executive Summary and Table of Contents

In this section, the offer will be summarized, highlighting salient features of the proposal, including a description of the offeror's approach and plans to satisfy and support requirements of this solicitation.

Section 3 - Technical Approach

The technical approach should be in as much detail as the offeror considers necessary to fully explain the proposed technical approach or method and must demonstrate a clear and concise presentation that includes, but is not limited to, the requirement of the technical proposal instructions. The Technical Proposal should reflect a clear understanding of the nature of the work being undertaken. The technical approach should discuss any perceived areas of risk and risk management. If subcontractors are to be utilized, the offeror shall submit the same information pertaining to the subcontractors.

The offeror should state all assumptions, exceptions, and deviations at the end of this section. For every instance where the offeror does not propose to comply with or agree to a requirement, the offeror shall propose an alternative and describe its reasoning therefore.

For requirements that describe a mandatory feature, the response may consist of a reference to the offeror's technical literature. Any technical literature used as a reference must be furnished as an attachment to the proposal. If the reference contains the required technical detail, it is not necessary to restate such detail in the proposal itself. All references must clearly identify the volume, page and line number of the referenced material.

For requirements that describe an optional feature or function, the offeror must provide a response on how this optional requirement is to be satisfied.

Elaborate brochures, binders and the like are neither required nor desired. Legibility, clarity and completeness are important. The submission of brochures or flyers alone without an accompanying explanation specific to this proposal is not acceptable.

The offeror's technical approach shall address the following:

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Factor 1 - TECHNICAL APPROACH - (45 points)

The offeror shall demonstrate a clear understanding of the work to be performed. The proposal shall outline an effective, efficient, and achievable approach for accomplishing the work to be performed. Key personnel will be evaluated on their technical knowledge. In addition, key personnel will be evaluated on their education and accomplishments; understanding of the requirements in the SOW; corporate experience relevant to the SOW; management approach to the same or similar requirements in the SOW; and technical approach to the SOW. Specifically, Offerors will be evaluated on the ability of their key personnel to clearly demonstrate their understanding, knowledge, experience, technical approach, management approach, and allocation of resources to meet the requirements in the SOW.

Offerors must provide the following information to assist in the evaluation of the proposed key personnel.

- The offeror must identify key personnel assigned to this contract and specify the individual roles. (The main body of the RFP shall specify which positions that CBP will consider to be offeror key personnel.) (9 points)
- The offeror must demonstrate that each key person assigned to perform under this contract has the requisite experience in advertising and marketing to recruit for law enforcement positions. The Agency must be satisfied that the experience of the key personnel demonstrates that the key personnel are capable of working together as a cohesive unit. (9 points)
- The offeror must ensure that the key personnel are available to the Agency's National Recruitment staff for at least 75% (3.5 to 4 days per workweek) of the contract life. The offeror must agree to secure the agency's approval of changes key personnel. (9 points)
- The offeror must provide at least three references for each key person, including name, phone number and the work performed for that reference. The results of reference checks must validate the offeror's claims regarding the experience and capabilities of the key personnel. (9 points)
- The offeror must provide information on Non Key Personnel required for this contract and specify the individual roles. (9 points)

Factor 2: MANAGEMENT APPROACH - (35 points)

Offeror shall demonstrate an understanding of the project planning, risk management and the relationship between financial and resource allocation necessary to successfully execute the requirement. Offeror shall demonstrate its management approach to execute the requirements and objectives of the SOW through its employment of the necessary personnel, physical and financial resources.

Offerors will be evaluated on management approach information presented in the written technical proposals.

Contract and Cost Management:

- The offeror's Project Manager must be committed to being continually engaged in managing the project and available to meet with the agency on a weekly basis for at least the first six months of the contract; (5 points)

- As applicable, the offeror's sub-contracting plan must demonstrate effective, cohesive management of sub-offeror resources. The offeror must also articulate its invoicing procedure and elaborate on the software it will use to track specific jobs, costs, invoices, work performed, payments received and expenses paid; (5 points)
- The offeror must articulate its approach to staffing the key and other members of the project team and how it plans to conduct project planning and management, during both peak and lull periods; (5 points)
- Offerors will be evaluated on their approach to the management of subofferors and the roles and responsibilities of team members; (5 points)
- Offerors will be evaluated on their ability to resolve potential problems arising during contract performance; (5 points)
- The successful proposal shall demonstrate clear planning, project management and controls, change management, and product quality controls. This shall include formal certification or clearly demonstrating the adoption of strong methods and project controls that can deliver on time, on budget, and to the required quality; and (5 points)
- Offerors shall demonstrate expertise in working with partners, sub-offerors, or its capability to do the whole project in-house. (5 points)

Factor 3: PAST PERFORMANCE -CAPACITY AND RECENCY OF EXPERIENCE - (20 points)

The offeror has the demonstrated capacity to design and deliver marketing and advertising campaigns that will yield a minimum of 180,000 qualified law enforcement recruits per year over a five-year period. In light of the changes in homeland security and the competitive nature of hiring for law enforcement positions, the market for viable candidates has changed significantly. Recent, large scale, success in recruiting law enforcement personnel is a critical factor in demonstrating the offeror's ability to adapt to the changing post 9-11 labor market. Thus, the offeror's experience in large-scale recruitment of law enforcement personnel must be during the preceding three (3) to five (5) years.

The offeror must provide the following information to assist in the evaluation of the past performance:

- Evidence of Government and non-Government advertising contracts (for the same or substantially similar National Recruitment Advertising Services) references including contract number, type, and dollar value; place of performance; dates of services provided, whether performance is on-going or complete; extent of subcontracting; (5 points)
- The names, phone numbers, and e-mail addresses of at least two points of contact (POCs - program manager, COTR, or contracting officer) of each contract and organization for which they performed advertising, and the results of those reference checks must support the offeror's claims. The Agency will evaluate only the past performance of offerors that will actually perform the work and the past performance information must be relevant to the pending contract; (5 points)
- Evidence of cost control procedures on current or past performance; (5 points)
- The contract number, type and severity of any quality, delivery or price problems in performing the contract, the corrective action taken, and the effectiveness of the corrective action. (5 points)

The Government reserves the right to contact the points of contact identified in the offeror's quote for the purpose of verifying the offeror's record of past performance

Transition Plan

Describe the strategy and approach to full implementation and assumption of full operational responsibility for all requirements contained in the solicitation requirements. This assessment will include an evaluation of the sufficiency of the offeror's mobilization, training, and orientation of the work force. In addition, the plan must address how the contractor will transfer the functions to a new contractor, or upon termination, transfer the functions back to the Government.

Oral Proposal Information

Oral Presentations may be required. Offerors will be provided guidelines and submission requirements.

Section 4 - Offeror's Addendum

This section is provided for submission of any additional information not included elsewhere but considered to be pertinent to the proposal.

A separate evaluation team has been established to evaluate the cost or price proposal. The evaluation will be conducted as detailed in the provision entitled "COST OR PRICE EVALUATION" contained in this solicitation.

Also see provisions entitled "RELATIVE IMPORTANCE OF EVALUATION FACTORS" and "BASIS OF AWARD (TRADE-OFF ANALYSIS)" contained in this solicitation.

[End of Provision]

L.5 AGENCY LEVEL PROTEST NOTICE (APR 2003)

Offerors are notified that per FAR 33.103(d)(4), an independent review of the grounds for a protest is available at a level above the contracting officer as an alternative to the protest to the agency contracting officer, not as an additional appeal after the protest to the agency contracting officer has been resolved. A choice to protest to the agency contracting officer therefore relieves the U.S. Customs & Border Protection of any further internal review or appeal after the contracting officer's decision.

[End of Provision]

[END OF SECTION L]